



# Information for Trade Mark Applicants

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This leaflet provides you with detailed information if you wish to file a trade mark application.

You can download the (German-language) official form W 7005 for the application of a trade mark including information on how to fill it in from [https://www.dpma.de/english/services/forms/trade\\_marks/index.html](https://www.dpma.de/english/services/forms/trade_marks/index.html).

## 1. Legal requirements

The legal requirements for the application of a trade mark result from

- the Trade Mark Act (Markengesetz, [http://www.gesetze-im-internet.de/englisch\\_markeng](http://www.gesetze-im-internet.de/englisch_markeng)),
- the Trade Mark Ordinance (*Markenverordnung*, (form W 7730.1),
- the DPMA Ordinance (*DPMA-Verordnung*, ([http://www.gesetze-im-internet.de/dpmav\\_2004](http://www.gesetze-im-internet.de/dpmav_2004), available in German only),
- the Patent Costs Act (*Patentkostengesetz*, (form A 9514.1 – extract),
- the Ordinance Concerning the Administrative Costs at the DPMA (*DPMA-Verwaltungskostenverordnung*, ([http://www.gesetze-im-internet.de/dpmavvkostv\\_2006](http://www.gesetze-im-internet.de/dpmavvkostv_2006), available in German only),
- the Patent Costs Payment Ordinance (*Patentkostenzahlungsverordnung*, (form A 9511.1),
- the Ordinance on Electronic Legal Transactions with the German Patent and Trade Mark Office (*Verordnung über den elektronischen Rechtsverkehr beim Deutschen Patent- und Markenamt*, ([http://www.gesetze-im-internet.de/ervdpmav\\_2013](http://www.gesetze-im-internet.de/ervdpmav_2013), available in German only).

## 2. What is a trade mark?

A **trade mark** is a sign which can distinguish the goods and/or services of one undertaking from those of another. Words, letters, numbers, pictures, colours, sounds, three-dimensional configurations and other packaging may be protected as trade marks, provided they comply with the provisions of the Trade Mark Act.

A sign can be protected in Germany as a trade mark by recording it in the Trade Mark Register kept at the German Patent and Trade Mark Office (DPMA).

### What is a collective mark?

The collective mark is a sign that an association may use to gain protection for its members (enterprises). A collective mark can only be registered for an association with legal personality or a legal person under public law.

When filing an application for a collective mark, the provisions of Sections 97 et seq. of the Trade Mark Act must be observed.

## 3. How can I file an application?

You can file trade mark applications either **electronically**

- online via our website [www.dpma.de](http://www.dpma.de) (without signature card – in German only) or
- as registered user via our [DPMAdirekt](#) service (with signature card)

or on **paper**

- in writing by post to  
Deutsches Patent- und Markenamt, 80297 München, Germany (= [central mailing address](#)).  
Deutsches Patent- und Markenamt, Dienststelle Jena, 07738 Jena, Germany  
Deutsches Patent- und Markenamt, Informations- und Dienstleistungszentrum Berlin, 10958 Berlin, Germany
- by telefax to **+49 89 2195-4000** or
- personally at the DPMA in Munich, at the Sub-Office Jena or at the Information and Service Centre in Berlin.

Likewise, some [patent information centres](#) accept trade mark applications and forward them to the DPMA in Munich.

### 3.1. What are the advantages and disadvantages of the different options of filing an application?

#### a) Costs

Less expensive is electronic filing of the application. It costs 290 euros (application of a trade mark for up to three classes). A paper application costs 300 euros (application of a trade mark for up to three classes).

#### b) Support in filling in the form

In case of electronic trade mark applications without a signature card, you will be guided through the application process in seven steps. You will create the list of goods and/or services by means of a shopping basket, where only admissible terms (currently, approximately 72,000) are included. This helps avoid errors, which could lead to longer processing times.

For the application form on paper, helpful information in German on how to fill in the form is available on our website [https://www.dpma.de/docs/service/formulare/marke/w7005\\_ausfuellhilfe.pdf](https://www.dpma.de/docs/service/formulare/marke/w7005_ausfuellhilfe.pdf).



- A partnership under the Civil Code (*Gesellschaft bürgerlichen Rechts* [GbR]) can be registered in the Trade Mark Register if the name and address of at least one partner entitled to act as representative are indicated (Sec. 5(1) no. 2, second sentence, Trade Mark Ordinance).
- If the application for registration is for a limited liability company in formation (*Gesellschaft mit beschränkter Haftung in Gründung* [GmbH i. G.]), an uncertified copy of the company agreement must be attached. Please note that, after registration in the commercial register, the trade mark applied for or registered must be transferred to the limited liability company (*Gesellschaft mit beschränkter Haftung* [GmbH]). A certified extract of the commercial register must be attached to the request for transfer ([W 7616](#) – available in German only).

#### 4.5. What types of trade marks are there?

In addition to the most frequent types of trade marks, the simple word marks, combined word/figurative marks and simple figurative marks (without word elements), there are three-dimensional marks, colour marks, tracer marks and other types of trade marks (for example, position marks, movement marks).


#### Details concerning the types of trade marks

- **Word marks** are trade marks which neither have a graphic representation nor colours. They may consist of words, letters, numbers or other characters and which can be typed or printed using the DPMA's standard font.
- **Word/figurative marks** consist of a combination of word and figurative elements or of words that are represented in a graphical or figurative manner (for example, in colour, in a special font or a special order of the letters in relation to each other).
- **Figurative marks** consist exclusively of pictures, figurative elements or images (without word elements).
- **Three-dimensional marks** are concrete objects. They consist of a three-dimensional shape such as the form of the claimed goods or their packaging.
- **Colour marks** are trade marks composed of one colour without contours or of a combination of more than one colour.
- **Sound marks** are acoustical, audible marks, namely notes, sequences of notes, melodies or other sounds.
- **Tracer marks** are usually coloured stripes or threads fastened to certain products (mostly cables, wires or hoses).
- **Other types of trade marks** are marks not falling within the above-mentioned categories of trade marks. For example, position marks, which position signs on specific unchanging positions on goods or on parts of goods or on the packaging, are also recognised other

types of trade marks. Likewise, a movement mark, which shows a movement, for example, by means of a series of two- or three-dimensional images, belongs to that category of trade marks.

#### 4.6. What do I have to take into consideration when submitting the trade mark representation?

Your application must contain the representation of the trade mark, which **basically cannot be changed subsequently**, and indicate the **claimed type of trade mark** as well as **exactly specify the represented subject matter of protection**. Otherwise, the application is not effective **or, under certain circumstances**, does not establish a filing date for determining the priority date of the trade mark.

In case of word marks (Sec. 7 Trade Mark Ordinance), the trade mark must be indicated on the application form using common characters (letters, numbers or other characters; see  [list of allowed characters](#) – available in German only).

For all other trade marks, a graphic representation of the trade mark must be attached to the application. Please use annex form [W 7005.1](#) (available in German only) and print or glue the representation of the trade mark onto it or insert it into the form.

**Please note that the ® symbol should not be included in the trade mark representation with the application because, under certain circumstances, refusal due to deceptiveness pursuant to Section 8(2) no. 4 of the Trade Mark Act is possible.**

Sometimes, the graphic representation is not able to sufficiently represent the subject matter of protection of the trade mark (e.g. in case of trade marks in colour, position marks and movement marks).

In such case, the trade mark application must be accompanied by a description of the trade mark.

For the format of the representation, the following formal requirements must be met:

- The sheets used for the representations of the mark must not exceed A4 size (height: 29.7 cm, width: 21 cm).
- The space for representation of the trade mark (type area) must not exceed 26.2 cm x 17 cm.
- The minimum size of the trade mark representation must be 8 cm in width or 8 cm in height (Sec. 8(3) Trade Mark Ordinance).
- The sheets may be printed on one side only.
- Distance from the top and left margin must be at least 2.5 cm.
- Please write "top or bottom" on each representation to indicate the correct position of the trade mark, if it is not obvious.

Alternatively, an electronic data carrier (CD or DVD) containing the representation of the trade mark can be

submitted. The following formats of electronic data carriers are allowed under Section 8(6) and (7), of the Trade Mark Ordinance:

- CD-R
- CD-RW
- DVD-R
- DVD+R
- DVD-RW
- DVD+RW.

The image files in the JPEG (\*.jpg) format must be saved in the root directory of the empty data carrier (no subdirectories). The size of the file must not exceed 1 Megabyte.

#### 4.6.1. Special provisions with regard to three-dimensional marks

For the application of a three-dimensional shape to be registered as a trade mark (three-dimensional mark), a maximum of six different views of the trade mark can be filed.

#### 4.6.2. Special provisions with regard to sound marks

If a sound is applied for as a trade mark (sound mark), a sound representation of the trade mark on an electronic data carrier (CD or DVD) must be attached to the application in addition to the graphic representation of the trade mark (using musical notation).

#### 4.6.3. Special provisions with regard to trade marks containing non-Latin characters

If a trade mark contains non-Latin characters (e.g. Arabic, Chinese, Greek or Cyrillic characters), a German translation, a transliteration or transcription of the non-Latin characters must be submitted.

#### 4.7. What do I have to take into consideration if I want a trade mark to be registered in colour?

If you want the trade mark to be registered **in colour** instead of in black and white, the respective general names of the colours must be indicated (e.g. "red", "green", "yellow"). Using RAL, Pantone or HKS colour codes is not sufficient. However, they can be used in addition to the names of the colours.

Please also note the information under paragraph 3.2. "[Important tips for filing a trade mark application by telefax](#)" of this leaflet.

#### 4.8. List of goods and/or services

Trade marks are not registered for general use. You must list for which goods and/or services you seek protection for your trade mark. This is why the list of goods and/or services is an important element of the trade mark application, which would be incomplete without such a list. Please precisely name the goods and/or services for which the trade mark is intended to be used.

Errors occurring when preparing the list of goods and/or services by far make up the most frequent reason for longer processing times of trade mark applications. In order to avoid this additional work and to be able to register trade marks faster, we offer a range of support with the preparation of lists.

You will find general information on the internationally harmonised classification at [https://www.dpma.de/english/trade\\_marks/classification/goods\\_and\\_services/index.html](https://www.dpma.de/english/trade_marks/classification/goods_and_services/index.html).

Terms allowed for the preparation of a list are available in the harmonised classification database ([eKDB database](#)). If terms from the eKDB database are used in the application, we can register the trade marks immediately – if there are no legal grounds for refusal.

All goods and/or services are divided into a total of 45 classes under the Nice Classification. The list of goods and/or services must be filed **in grouped form**. This means that the goods/services must be separately listed for each class and the classes must be given in ascending numerical order.

Example: class 20: furniture  
class 35: advertising; business management  
class 36: financial affairs

The amount of the fee payable for the application depends on the number of classes claimed.

#### 5. Checklist for filing your (non-electronic) trade mark application

- Have you used and completely filled in our official application form [W 7005](#)?
- Is the applicant of the trade mark clearly identifiable?
- Is the type of trade mark unambiguous and was the trade mark correctly represented?
- Does your list of goods and/or services correspond to the internationally harmonised classification?  
To check if it does, please use the eKDB database at [https://www.dpma.de/english/trade\\_marks/classification/goods\\_and\\_services/index.html](https://www.dpma.de/english/trade_marks/classification/goods_and_services/index.html)

### Acceleration of the application

We will process your application particularly fast if the following requirements are met:

- You submit a "SEPA Core Direct Debit Mandate" form together with a "Specification of the purpose of use of the mandate" form for the application fees. Please use the forms (A 9530.1 and A 9532.1) provided on our website at [www.dpma.de/english](http://www.dpma.de/english) and note the provided information about the SEPA scheme.
- You prepare the list of goods and/or services by using the harmonised classification database, which allows you to quickly and comprehensively see all admissible terms for goods and/or services.
- You file the application electronically. A discount is available for electronically filed applications. For more information about the fees, please refer to <https://www.dpma.de/english/services/fees/trademark/index.html>.
- You file a **request for accelerated examination** (Sec. 38 Trade Mark Act). Such request can be made in order to expedite the decision on the requirements of registration (Secs. 36 and 37 Trade Mark Act). Its aim is to ensure that a trade mark is registered within a period of six months, if it complies with all registration requirements. Registration of the trade mark within this period is important, for instance, if the applicant intends to have this trade mark registered internationally and to claim the priority of the German trade mark. A special fee of 200 euros must be paid for the accelerated examination.

### 6. How much does a trade mark application cost?

For a trade mark application, an **application fee including class fees for up to three classes** must be paid. If the trade mark is applied for goods and/or services covered by more than three classes of the classification of goods and services, a **class fee must be paid for the fourth and each additional class**. The fees are due at the time of filing the application. The payment cannot be deferred or waived. The amount of the fees will be communicated to the applicant together with the acknowledgement of receipt. Subsequently, no further request for payment of the fees listed in the acknowledgement will be issued.

<b>(1) Application procedure including the class fee for up to three classes</b>		
for a trade mark (Sec. 32 Trade Mark Act) for electronic filing		290 euros
for a trade mark (Sec. 32 Trade Mark Act) for filing on paper		300 euros
for a collective mark (Sec. 97 Trade Mark Act)		900 euros
<b>(2) Additional class fee at the time of filing the application</b>		
for a trade mark for each additional class (Sec. 32 Trade Mark Act)		100 euros
for a collective mark for each additional class (Sec. 97 Trade Mark Act)		150 euros
<b>(3) Fee for the request for accelerated examination under Section 38 of the Trade Mark Act</b>		
Accelerated examination of application (Sec. 38 Trade Mark Act)		200 euros

**If the full amount of the application fee is not paid within three months from filing the application, the application shall be deemed to have been withdrawn** (Sec. 6(1) Patent Costs Act [*Patentkostengesetz*]). The payment time limit stipulated by law runs irrespective of the receipt of an acknowledgement of receipt!

### Payment instructions

Please indicate the file number, the applicant's name and the fee number for all payments in a legible way.

**The payment of the fee** is determined according to the Patent Costs Payment Ordinance (*Patentkostenzahlungsverordnung*).

According to it, fees may be paid

- in cash** at the paying offices of the DPMA in Munich, Jena or at the Information and Service Centre in Berlin,
- by credit transfer or by (cash) deposit** at a national or foreign financial institution

#### Beneficiary:

Bundeskasse Halle/DPMA  
 IBAN: DE84 7000 0000 0070 0010 54  
 BIC (SWIFT-Code): MARKDEF1700

#### Address of the bank:

Bundesbankfiliale München  
 Leopoldstr. 234  
 80807 München, Germany

or

- c) **by submitting a valid "SEPA Core Direct Debit Mandate" form** together with a "Specification of the purpose of use of the mandate" form.

Please use the forms (A 9530.1 and A 9532.1) provided on our website at [www.dpma.de/english](http://www.dpma.de/english) and note the provided information about the SEPA scheme.

The following date will be **deemed to be the payment date** under Section 2 of the Patent Costs Payment Ordinance:

<u>Payment method</u>	<u>Payment date</u>
• <b>for cash payment</b>	➔ the date of paying in the amount
• <b>for credit transfer</b>	➔ the date when the amount is credited to the account of Bundeskasse Halle
• <b>for (cash) deposit</b>	➔ the date of deposit

**! Important information about cash deposit:**

Based on the accounting data, *Bundeskasse Halle* cannot see whether an amount was credited by credit transfer or by cash deposit. If you have paid fees by cash deposit, please submit the **deposit receipt** issued by the financial institution **without delay** to the DPMA so that the date of deposit can be deemed to be the payment date.

• **for the SEPA Core Direct Debit Scheme**

- ➔ date of receipt of a valid SEPA mandate form together with a form specifying the purpose of use covering the costs; for costs becoming due in future, the due date insofar as your account will be debited to the credit of *Bundeskasse Halle*

**! Important information about the transmission of a SEPA mandate form by telefax:**

If you transmit the "SEPA Core Direct Debit Mandate" form by telefax, please submit the original within a **period of one month** from receipt of the telefax. Otherwise, the date of receipt of the original will be deemed to be the payment date.

The **application fee and any class fees** for national trade mark registration are request fees, which will be forfeited upon filing the request and payment irrespective of the outcome of the trade mark registration procedure. **This means that the application fees will not be refunded, for example, in case of withdrawal of the trade mark application.** The same applies by analogy to

national fees due for an application of an international mark or for a designation subsequent to an international registration.

## 7. What happens after the application?

You will receive an acknowledgement of receipt containing the official file number. Since the essential application data are recorded in the internal data processing system, your application will be publicly available via the electronic register **DPMAREGISTER** at [www.dpma.de/english](http://www.dpma.de/english).

After receipt of the fees to be paid within a period of three months from filing the request, the DPMA will examine whether the application meets the formal requirements and whether there are absolute grounds for refusal of a trade mark registration (for details, see [paragraph 8](#)) (Secs. 36 and 37 Trade Mark Act).

If the formal requirements of the application are met and if there are no absolute grounds for refusal, the trade mark will be registered. You will then receive the certificate of registration together with the register extract. The registration of the trade mark will be published in the official electronic register at <https://register.dpma.de/DPMAREGISTER/Uebersicht?lang=en>.

**Please note:**

During the application procedure, it will not be examined whether a trade mark cannot be registered due to earlier trade marks or other signs by third parties.

In case of opposition or cancellation proceedings due to earlier rights, the trade mark may be cancelled.

## 8. Absolute grounds for refusal

A trade mark can only be registered if there are no absolute grounds for refusal. Absolute grounds for refusal are, for example:

- lack of distinctiveness,
- descriptive terms that should be kept freely available for general use,
- obvious deceptiveness,
- emblem of state included in a trade mark,
- offence against morality or public policy.

Excluded from protection are thus, for example, signs not suitable for graphic representation, which are devoid of any distinctive character or which only describe the concerned goods and/or services (e.g. the word "apple" for "fruits").

In such cases, registration **cannot** be claimed even if the trade mark was registered in the Trade Mark Register identically or in a similar way before. The decision is taken in each individual case solely based on law.

If, during the examination of your application, it is found that there are grounds for refusal, you will receive a written information on the defects. If the office's concerns cannot be resolved following examination of your comment, a



decision will be taken to refuse the application (where applicable, in part). You can have this decision reviewed in (official) special motion (*Erinnerung*) or (judicial) appeal proceedings subject to costs (see [paragraph 9](#)).

## 9. Special motion (*Erinnerung*) or appeal

If the absolute ground for refusal persists despite the comment made by the applicant, a decision to reject the application will be issued by a civil servant of the higher intermediate service or of the higher service or a comparable employee as examiner – depending on the allocation of responsibilities.

If a civil servant of the higher service has taken the decision, an **appeal** from the decision can be lodged with the Federal Patent Court. If a civil servant of the higher intermediate service or a comparable employee has taken the decision, a **special motion (*Erinnerung*) or an appeal** from the decision can be lodged. In contrast to the appeal before the Federal Patent Court, a decision on the special motion (*Erinnerung*) is taken by a civil servant of the higher service or a comparable employee as senior examiner. An appeal from this decision may be lodged with the Federal Patent Court.

The **period** for lodging a special motion (*Erinnerung*) or an appeal is **one month** from the date of receipt of the decision.

It is possible to lodge an appeal as an electronic document. This requires certain IT-specific requirements that have to be met, whose regulatory framework is set out in the Ordinance on Electronic Legal Transactions with the German Patent and Trade Mark Office. It is important to observe the detailed requirements for lodging an electronic appeal which you can find at <https://www.dpma.de/docs/formulare/allgemein/a9519.pdf> (in German).

For example, it is **not sufficient** to transmit a notice of appeal via e-mail to the DPMA. If the **requirements are not met**, the appeal is **not made effectively**. Please check carefully whether you are able to duly make an appeal in electronic form or whether you wish to make an appeal on paper which is still admissible.

A fee must be paid for both the special motion (*Erinnerung*) (150 euros) and the appeal (200 euros). The fee must be paid separately for each party that lodged a special motion (*Erinnerung*) or appeal.

All details (the person who took the decision; the legal remedy available; time limit, form and fee of the legal remedy) are included in the instruction on legal remedies annexed to the decision to refuse the application.

If a decision on the special motion (*Erinnerung*) is not taken within a period of six months, it is possible to make a request for decision. If no decision is taken within a period of two months from the receipt of the request, an appeal from the decision contested by the special motion (*Erinnerung*) may be directly lodged with the Federal Patent Court.

For appeal proceedings before the Federal Patent Court, it is possible to request legal aid (Sec. 81a Trade Mark Act).

## 10. Effects and term of protection

Registration of your trade mark in the German Trade Mark Register will give you trade mark protection in the whole territory of the Federal Republic of Germany. The term of protection commences with the filing date and ends **ten years after expiry of the month** in which the filing date falls.

In contrast to the other industrial property rights, trade mark protection can be renewed an unlimited number of times. Each renewal by ten years is subject to a fee. You can also seek renewal only for a part of the goods and/or services and thus may save renewal fees if you abandon no longer needed classes. Form [W 7412](#) (available in German only) to request renewal and change scope of protection can be downloaded from [https://www.dpma.de/english/services/forms/trade\\_marks/index.html](https://www.dpma.de/english/services/forms/trade_marks/index.html).

Renewal is effected by paying a renewal fee and, if renewal is intended to apply to goods and/or services covering more than three classes, class fees. These fees for the following term of protection are due at the last day of the month in which the term of protection of the trade mark ends (Sec. 3(2) Patent Costs Act). They can be paid in advance, at the earliest, one year before they become due. They must be paid by the expiry of the second month after the due date. After that date, the registered trade mark can only be renewed if the fees and a surcharge for late payment are paid before the expiry of a period of six months after the due date (Sec. 7(1) Patent Costs Act).

## 11. What can I do with a registered trade mark?

Registration of a trade mark gives the proprietor of the trade mark an exclusive right (Sec. 14(1) Trade Mark Act). This means that, in case of infringement of these rights, the proprietor may bring an action for damages or apply for an injunction of the infringing acts (Secs. 14 et seqq. Trade Mark Act).

**However, it should be noted that the trade mark may be cancelled subsequent to opposition proceedings on the basis of earlier trade mark rights. This means that, at first, only a provisional right is granted.**

## 12. Opposition

As a rule, registration of your trade mark is a registered right that may be cancelled under certain conditions. If your newly registered trade mark is identical or similar to other, earlier applications, trade marks or commercial designations, their proprietors may lodge **opposition** against your trade mark. Of course, this also applies to the contrary case: if your trade mark right is infringed by a newly registered trade mark, you may lodge opposition

against it. In case of successful opposition, the trade mark will be cancelled in full or only for a part of the goods and/or services. Form [W 7202](#) (available in German only) to be used for lodging a notice of opposition against registration of a trade mark is available under [https://www.dpma.de/english/services/forms/trade\\_marks/index.html](https://www.dpma.de/english/services/forms/trade_marks/index.html).

### Course of opposition proceedings

After publication of the trade mark registration, the proprietor of an earlier trade mark applied for or registered, the proprietor of a trade mark acquired by use and the proprietor of a commercial designation (title or business identifier) may, **within a period of three months** following publication, give notice of **opposition** (Sec. 42 Trade Mark Act).

If one or several notices of opposition are received, the DPMA informs the proprietor of the challenged trade mark. The proprietor has the opportunity to make a comment. After both the opposing party and the proprietor of the challenged trade mark had the opportunity to make comments, a decision on the opposition is taken by a civil servant of the higher intermediate service or a comparable employee or by a civil servant of the higher service – depending on the allocation of responsibilities.

Opposition may be based on identity of trade marks (Sec. 9(1) no. 1 Trade Mark Act), likelihood of confusion (Sec. 9(1) no. 2 Trade Mark Act) and reputation of an earlier trade mark (Sec. 9(1) no. 3 Trade Mark Act).

By far the most notices of opposition are based on likelihood of confusion. As a rule, such opposition will be upheld and the later trade mark will be cancelled if there is a risk that the circles addressed by the goods and/or services may confuse the signs due to identity or similarity of the opposed sign with the registered signs and identity or similarity of the goods and/or services covered by both signs or proximity of trade. If there is no risk, the opposition will be refused.

A special motion (*Erinnerung*) or an appeal may be filed against the decision taken on the opposition (see above under [paragraph 9](#)).

In order to avoid the risk to the largest extent possible that your trade mark is cancelled in opposition proceedings, you should conduct a search on whether identical or similar trade marks have been registered already before filing the application. You can conduct such a search by using the DPMAregister search system of the DPMA (<https://register.dpma.de>) via the Internet or in the DPMA's search room in Munich, in the Information and Service Centre in Berlin or in one of the patent information centres. You can also enlist search support by a lawyer or patent attorney or private providers of services. We also recommend searching for identical or similar earlier trade marks acquired by use and commercial designations by conducting a general (Internet) search because such trade marks cannot be searched in DPMAregister.

### 13. Cancellation of the registration of a trade mark in the Register

Full or partial cancellation of a trade mark registration from the Register may be based on different reasons:

#### → Surrender

As proprietor of a registered trade mark, you can surrender the trade mark as a whole or individual goods and/or services (Sec. 48 Trade Mark Act). Form [W 7437](#) (available in German only) to be used for full/partial cancellation of the registration of a trade mark due to surrender can be downloaded from [https://www.dpma.de/english/services/forms/trade\\_marks/index.html](https://www.dpma.de/english/services/forms/trade_marks/index.html).

#### → Non-renewal

Registration of a trade mark will be cancelled from the Register after expiry of the ten-year term of protection unless its term of protection is extended by another ten years by payment of a renewal fee (Sec. 47 Trade Mark Act).

#### → Opposition and cancellation proceedings

Cancellation can also be based on a third-party request. A third party may also request cancellation of the registration of a trade mark within the framework of opposition proceedings (see above under [paragraph 12](#)) due to revocation of the trade mark (Secs. 49 and 53 Trade Mark Act) or due to invalidity of the trade mark because of absolute grounds for refusal (Secs. 50 and 54 Trade Mark Act). These are proceedings subject to a fee in which the trade mark proprietor will be involved.

#### → However, cancellation may also be the result of court proceedings before ordinary courts concluded with binding effect. During such proceedings, a third party may also claim revocation of the trade mark or existing earlier rights which the trade mark infringes (Secs. 49, 51, 55 Trade Mark Act).

Forms [W 7440](#) (request for full/partial cancellation due to revocation), [W 7412](#) (request for full/partial renewal of a trade mark) or [W 7442](#) (request for full/partial cancellation due to absolute grounds for refusal) (all available in German only) may be downloaded from [https://www.dpma.de/english/services/forms/trade\\_marks/index.html](https://www.dpma.de/english/services/forms/trade_marks/index.html).

### 14. General remarks

At any time during the procedure before the DPMA, the application may be withdrawn and the list of goods and/or services contained in the application may be limited.

It is also possible to declare the division of the filed or registered trade mark.

Likewise, foreign-language applications may be submitted. Section 15 of the Trade Mark Ordinance contains detailed provisions.

## 15. Warning against – partially misleading – offers, requests for payment and invoices relating to IP applications and renewal of IP rights

The DPMA **warns** against – **partially misleading** – offers, requests for payment and invoices relating to IP applications and renewal of IP rights from private companies unrelated to the DPMA.

These companies offer services against payment including the publication or registration of IP rights in **non-official registers** (see below under **IP applications**) or the **renewal of IP rights** at the DPMA (see below under **Renewal of IP rights**).

Often, such letters cannot be identified as offers at first sight – in many cases, this becomes only obvious by carefully reading the small print or the terms and conditions that are sometimes printed on the back. Some communications resemble the communications and forms of the DPMA or other authorities. An even greater likelihood of confusion is caused by the official-sounding names and logos similar to state emblems of the companies.

You should therefore always carefully read communications containing requests for payment. If you are not sure whether the communications are really from the DPMA, please contact your lawyer or patent attorney. In case of questions regarding unsolicited mail you have received or to inform us about a company that might be

sending misleading requests for payment and that should be mentioned on the DPMA website, please do not hesitate to [contact](#) us.

Such approaches *per se* do not have any legal effect; they do not create any obligation to pay the issuer.

### IP applications

Please note that an IP right may only be obtained by filing an application with the DPMA or with another IP authority.

**Official fees** charged in connection with an IP right **in the procedure before the DPMA** must be paid **exclusively to the account indicated by the DPMA**. The fees are listed in the [information leaflet concerning costs, fees and expenses](#) (see also above under [paragraph 6](#)).

The DPMA will **not charge any additional fees for the publication** of an IP right in the Register.

### Renewal of IP rights

IP rights can be renewed by timely payment of the respective renewal fee to the account of the DPMA. The renewal fees are listed in the [information leaflet concerning costs, fees and expenses](#).

Further information and a list of enterprises which are not commissioned by the DPMA are available on the DPMA website at [https://www.dpma.de/english/services/fees/warning\\_against\\_misleading\\_requests/index.html](https://www.dpma.de/english/services/fees/warning_against_misleading_requests/index.html).